

PATENT APPLICATION
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q88078

Naoaki TAOKA, et al.

Appln. No.: 10/536,768

Group Art Unit: 1651

Confirmation No.: 2449

Examiner: Sandra E. SAUCIER

Filed: May 27, 2005

For: PROCESS FOR PRODUCING OPTICALLY ACTIVE 3-HYDROXYPROPIONIC
ESTER DERIVATIVE

SECOND SUBMISSION OF CORRECTED TRANSLATION
OF INTERNATIONAL APPLICATION AS FILED
(35 U.S.C. § 371 (c)(2))

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

Applicant attaches hereto a corrected translation of the Japanese language International Application No. PCT/JP03/015644, which is the International Application upon which the present National Stage application is based. New matter is not present in the corrected translation.

Applicant previously submitted a translation of the International Application on May 27, 2005, but that translation contained an error. In addition, applicant submitted a corrected translation of the International Application earlier today, but the corrected translation also contained an error.

In particular, an error appeared at page 24, line 15, of the translation filed May 27, 2005, which omitted the term "*Rhodococcus sp.* KNK01." that should have appeared after the term

“derived from” that is at the end of line 15. In the corrected translation filed earlier today, the term “*Rhodococcus sp*” was added at page 24, line 15, but the term “KNK01” was omitted.

The present application has been allowed. During prosecution of the present application, the claims were amended. Applicants request that the claim amendments that have been previously made be retained.

During prosecution, the specification of application was amended on two occurrences. Applicants request that those amendments not be retained. The first amendment was made on January 25, 2008 in response to a request by the Examiner to insert a reference to PCT/JP03/15644 in the first paragraph of the specification. Although applicants complied with that request, such a reference is not needed because the rules of the USPTO do not require reference to the International PCT application in the first paragraph of the specification or anywhere else. See MPEP § 1893.03(c)III, page 1800-208, 8th Ed., July 2008 Revision, which specifically states that “it is not necessary for the applicant to amend the first sentence(s) of the specification to reference the international application number”

The second amendment to the specification was made in a Supplemental Amendment Under 37 C.F.R. § 1.116 on May 7, 2009 to complete the incomplete sentence that appeared at page 24, line 15. The enclosed corrected translation contains the correct completed sentence, and thus the amendment to the specification in the Supplemental Amendment is not needed.

Applicants note that an Office communication dated July 21, 2009 states that the amendments to the specification and claims filed on May 7, 2009 have been entered. The Office

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communication states that an “attachment to the communication shows the first page of the amendment to the specification and claims stamped OK to enter with the examiner’s initial.”

The Office communication dated July 21, 2009 received by applicants, however, did not contain an “attachment” and such an attachment does not appear in “PAIR.” As can be seen from the above, applicants request that the amendment to the specification not be retained and that the amendments to the claims be retained.

Applicant paid a processing fee of \$130.00 as set forth in § 1.492(i) for filing the first corrected translation earlier today, and believes that no additional fee is required for the present Second Submission.

The USPTO is also directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

/Sheldon I. Landsman/

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CUSTOMER NUMBER

Date: September 8, 2009